



COLORADO
Department of Revenue

Taxation Division

Physical Address:
1375 Sherman Street
Denver, CO 80203

Mailing Address:
P.O. Box 17087
Denver, CO 80217-0087

PLR 18-006

July 3, 2018

XXXXXXXXXXXXXXXXXX
Attn: XXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX

Re: Private Letter Ruling / XXXXXXXXXXXXXXXXXXXX

Dear XXXXXXXXXXXXXXXXXXXX,

You submitted a request for a private letter ruling on behalf of your client XXXXXXXXXXXXXXXXXXXX (“Company”) to the Colorado Department of Revenue (“Department”) pursuant to Department Rule 24-35-103.5. This letter is the Department’s private letter ruling. This ruling is binding on the Department to the extent set forth in Department Rule 1 CCR 201-1, 24-35-103.5. It cannot be relied upon by any taxpayer other than the taxpayer to whom the ruling is made.

Issue

- 1. Is the Daily Rental fee applied to [Rental No. 2], as defined below?

Conclusion

- 1. The Daily Rental fee is applied to [Rental No. 2].

Background

Company is in the business of short-term leasing of motor vehicles. These leases are generally subject to the daily rental fee set forth in §43-4-804(1)(b)(I), C.R.S. For certain high-risk rentals, Company requires a customer to return the vehicle to the Company's office or approved vendor for inspection (“[Rental No. 1]”). Company closes out the [Rental No. 1] in the Company’s system and Company submits an invoice to the customer for the [Rental No. 1]. If the customer wishes to rent the vehicle after the inspection and the Company agrees to rent the vehicle to the customer, Company will assign a new rental ticket number to that rental (“[Rental No. 2]”). The customer may use the same vehicle. The [Rental No. 2] is for a rental period of thirty days or less. The treatment of [Rental No. 1] is different from the typical rental. In the latter case, a customer may continue to use a vehicle without returning the vehicle for inspection and the rental agreement is extended and a new rental ticket is not written.

Discussion

Colorado assesses a fee on short-term vehicle rentals.¹ The fee of \$2 is imposed on each day of a short-term vehicle rental. A short-term vehicle rental means the rental of any motor vehicle that is rented within Colorado for a period of not more than 30 days,²

...except that a subsequent renewal of a short-term vehicle rental is exempt from the fee to the extent that the renewal extends the total rental period beyond thirty days.

The question raised in this ruling is whether “renewal” refers to an extension of the existing contract or to the creation of a new rental on the same terms and conditions of the initial rental.³ More specifically, the issue is whether the termination of the [Rental No. 1] and the creation of a [Rental No. 2] is a “renewal [that] extends the total rental period beyond thirty days” within the meaning of the statute.

The Department concludes that “renewal”, for purposes of this daily rental fee, refers to a rental contract that is extended rather than to a new contract that follows the expired or terminated original contract. This position is based, in part, on the statute’s use of the phrase, “extends the rental period”. The most natural reading of this phrase is that the initial rental contract is extended for an additional period of time rather than referring to the total time a vehicle is rented under the initial and a subsequent rental contracts.

A contrary conclusion would lead to absurd results. For example, if “renewal” was interpreted to apply to a new rental contract that followed the termination of the existing rental contract, then a customer who rents a vehicle for 10 days, returns it to the rental company, and a day later rents the same vehicle or same type of vehicle for 28 days, would not be obligated to pay the daily rental fee for the 28 days because the second rental was a “renewal” of the terminated contract and extended the total rental period for more than 30 days. This also presents the rental company with the untenable logistical problem of determining at the outset of the lease whether the customer may “renew” the rental at some later date and for how long.

In the present case, the initial [Rental No. 1] is terminated. Customers are billed for the initial rental and Company then assesses whether it wishes to enter a new high risk rental agreement. By terminating the [Rental No. 1] rather than continuing the rental contract and simply having the right to inspect the vehicle, Company presumably has eliminated any argument by the customer that the

¹ §43-4-804(1)(b)(I)(A), C.R.S.

² §43-4-804(1)(b)(1)(B), C.R.S.

³ See, e.g., *BSG, LLC v. Check Velocity, Inc.*, 2012 Tenn. LEXIS 822, 8-9 (Tenn. Nov. 20, 201) (court stating that “renewal” is ambiguous and may refer to an extension of a contract or new a contract using terms of original contract); but, see, Black’s Law Dictionary, 8th Edition, “Renewal” means “the re-creation of a legal relationship or the replacement of an old contract with a new contract, as opposed to the mere extension of a previous relationship or contract.”

customer has the right to continued use of the vehicle, as would be the case in a typical rental contract, notwithstanding a dispute about damage or risk to the vehicle. In any event, the [Rental No. 1] / [Rental No. 2] scenario is the same, in contractual terms, as when a customer returns a vehicle to the rental company, the rental agreement is terminated, and the customer later enters into a new rental agreement.

The Department acknowledges that, in the facts described in this ruling, the lapse in time between the termination of the [Rental No. 1] and the creation of the [Rental No. 2] is relatively short, but that fact is immaterial in this instance. If the initial rental contract is terminated by its own terms, then a new rental contract is not the renewal of the original rental agreement.

Therefore, the Department rules that the [Rental No. 2] contract is not a renewal of the [Rental No. 1] contract within the meaning of the daily rental fee statute and that the [Rental No. 2] contract begins a new 30-day or less period for the daily rental fee.

Miscellaneous

This ruling is premised on the assumption that Company has completely and accurately disclosed all material facts and that all representations are true and complete. The Department reserves the right, among others, to independently evaluate Company's representations and assumptions. The ruling is null and void if any such assumption and representation is incorrect and has a material bearing on the conclusions reached in this ruling and is subject to modification or revocation in accordance to Department Regulation 24-35-103.5.

This ruling is binding on the Department to the extent set forth in Department Regulation 24-35-103.5. It cannot be relied upon by any taxpayer other than the taxpayer to whom the ruling is made.

Enclosed is a redacted version of this ruling. Pursuant to statute and regulation, this redacted version of the ruling will be made public within 60 days of the date of this letter. Please let me know in writing within that 60 day period whether you have any suggestions or concerns about this redacted version of the ruling.

Sincerely,

Neil Tillquist
Colorado Department of Revenue
Office of Tax Policy & Analysis

This ruling cannot be relied upon by any other taxpayer other than the taxpayer to whom the ruling is made.